



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF M-A-M-

DATE: JULY 23, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a mathematician, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had shown that she only met two of the ten initial evidentiary criteria, of which she must meet at least three.

On appeal, the Petitioner contends that she meets three criteria.

Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation

at 8 C.F.R. § 204.5(h)(3) sets forth two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is a major, internationally recognized award). Alternatively, he or she must provide documentation that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, memberships, and published material in certain media).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

## II. ANALYSIS

The Petitioner is a mathematician at [ ] College. As she has not received a major, internationally recognized award, the record must demonstrate that she satisfies at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director found that the Petitioner had met the criteria for judging and scholarly articles under 8 C.F.R. § 204.5(h)(3)(iv) and (vi), respectively, but not for awards, membership, original contributions of major significance, and leading or critical role under 8 C.F.R. § 204.5(h)(3)(i), (ii), (v), and (viii). On appeal, the Petitioner maintains that she meets these criteria. Upon reviewing all of the evidence in the record, we find that the record does not support a finding that the Petitioner satisfies at least three criteria.

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

The Director noted that the Petitioner submitted evidence of being awarded fellowships to study and research grants, concluding that, without additional corroborating evidence, these do not qualify as prizes or awards for excellence in the field. The Director noted that fellowships are not nationally or internationally recognized in the field because only students, and not experts in the field, compete for them. He indicated that the Petitioner had not established that research grants are given for excellence in the field.

On appeal, the Petitioner asserts that she meets this criterion on account of her research grant awards at the [ ] University of [ ] and at the [ ] University of Science and

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<sup>1</sup> We note that the Petitioner received the 2018 research award at [ ] after the date the petition was filed and thus cannot be used to establish eligibility. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

[redacted] her recognition awards from [redacted] College and the Missouri [redacted] [redacted] and an outstanding professor award from the Chi Omega sorority at the [redacted] University of Science and Technology. Although the Petitioner contends these awards are well-known in the field, she has not submitted evidence to support that assertion or demonstrate that these awards are nationally or internationally recognized to meet the requirements of this criterion.

We also note that the Petitioner has not submitted evidence of the criteria upon which these awards are based; thus, it is unclear whether they are given for excellence in the field. Documentation in the record indicates that the [redacted] grant program was established to encourage and support research and leverage external funding, and that it seeks to enhance the university's role as a research institution, further professional growth and development, and provide support for scholars. It also indicates that preference is given to junior faculty in the allocation of funds. Furthermore, the criteria for evaluation for the award identifies factors such as scholarly or creative merit, likelihood of the proposed project resulting in an original contribution to the field, and potential to receive funding from external sources; however, it does not indicate that applicants are evaluated on their demonstrated excellence in their fields. Additionally, the record lacks documentation regarding the research grant from the [redacted] University of Science and Technology to determine if it was awarded for excellence in the field.

Similarly, the certificates and letters of appreciation that the Petitioner has submitted the award from [redacted] College indicates it was given for public presentation of intellectual and creative scholarship. The certificate from the Chi Omega sorority notes that it was given in gratitude for her work preparing students for future careers. Likewise, the letters of appreciation relate to her work and participation in mentoring and study sessions. These awards appear to relate to her pedagogical work as a professor, rather than excellence in the field of mathematics, as required by the regulation. For these reasons, the Petitioner has not established her eligibility for this criterion.

*Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii).*

On appeal, the Petitioner asserts that her membership in the American Mathematical Society (AMS), the Mathematical Association of America (MAA), as well as for her position on the Math Alliance Executive Board and for being a [redacted] Fellow in 2009.

In his decision, the Director reviewed the membership requirements for both the AMS and the MAA and found that neither organization required outstanding achievements for membership, as required by the regulatory criterion. He noted that AMS membership is open to anyone who supports the mission of the society, while the MAA had no membership requirements beyond the payment of dues. Upon review of the record, we agree with the Director. Although the Petitioner submitted documentation about both organizations with the appeal, it does not overcome the Director's concerns or establish eligibility. For example, the section on AMS membership in the organization's annual report for 2016 welcomes new members, but provides no information about membership requirements. Similarly, the by-laws for the MAA identify three categories of membership in Article 2, but do not set forth the qualifications for any of them. As such, the record does not establish that either the AMS or the MAA require outstanding achievements

The Director also noted that the record lacked information about the membership requirements for the Math Alliance or its executive board, another organization the Petitioner claims establishes her eligibility. On appeal, she has submitted screenshots identifying her as one of the executive board members for the [redacted] chapter of the organization and discussing the history of the organization, but provides no evidence showing that the position requires outstanding achievements, as required by the regulation.

On appeal, the Petitioner claims for the first time that her [redacted] Fellowship in 2009 satisfies this criterion. While the record contains screenshots on how to apply for a [redacted] Fellowship with [redacted] University, the material provided does not describe the eligibility criteria for the position. As such, the record does not establish that it requires outstanding achievements as required by 8 C.F.R. § 204.5(h)(3)(ii).

For the reasons discussed above, the Petitioner has not established eligibility under this criterion.

*Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.* 8 C.F.R. § 204.5(h)(3)(iv).

The Director held that the Petitioner met this criterion. The record reflects that the Petitioner has conducted reviews for the *Journal of Intelligent Information Systems*, the *Journal of Inequalities and Applications*, and the *Malaysian Journal of Mathematical Sciences*, among other work as a judge of the work of others. Therefore, the Petitioner has established that she meets the requirements of this criterion.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v).

This regulatory criterion contains multiple evidentiary elements that the Petitioner must satisfy. She must demonstrate that his contributions are original and scientific, scholarly, artistic, athletic, or business-related in nature. The contributions must have already been realized, rather than being prospective possibilities. She must also establish that the contributions rise to the level of major significance in the field as a whole, rather than to a project or to an organization. The phrase “major significance” is not superfluous and thus has meaning. *See Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F.3d 28, 31 (3d Cir. 1995), *quoted in APWU v. Potter*, 343 F.3d 619, 626 (2d Cir. 2003). “Contributions of major significance” connotes that the petitioner’s work has significantly impacted the field. *See Visinscaia*, 4 F. Supp. 3d at 134.

The Director cited letters in the record from [redacted] [redacted] and [redacted], noting that they did not provide specific examples of how the Petitioner’s contributions are consistent with major significance. On appeal, the Petitioner provides additional letters attesting to the extent of her contributions. However, most of these letters discuss her work in mentoring other students, her innovative presentations, and the research grants she has received, but these details do not demonstrate how her work has been implemented in the field. For example, [redacted], a professor of mathematics at [redacted] College states that “[the Petitioner] has been a driving force

for the mathematics community at the college, the university and on the national level,” highlighting her work as a “reviewer for the largest mathematical databases in the world” and as a mentor and organizer of research activities. [REDACTED] indicates that she “has a spectacular talent for motivating and engaging students to present their results.” She concludes that “[the Petitioner] is an outstanding, internationally recognized mathematician that has made significant contributions to her area of research.” Merely repeating the language of the statute or regulations does not satisfy the Petitioner’s burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff’d*, 905 F.2d 41 (2d Cir. 1990); *Avyr Associates, Inc. v. Meissner*, No. 95 Civ. 10729 1997 WL 188942 \*5 (S.D.N.Y. 1997). Furthermore, letters from colleagues that do not specifically identify contributions or detail how those contributions have influenced the field are insufficient. *Kazarian v. USCIS*, 580 F.3d at 1036: *aff’d in part* 596 F.3d 1115.

We note that two letters discuss the Petitioner’s proposals to the “[REDACTED] Research Initiative,” indicating that these were published in the *Proceedings of SPIE* journal. However, the record does not contain evidence demonstrating that this work has had a significant impact on the field.

The Petitioner also addresses her scholarly articles and the rate in which they have been cited by other scholars and experts in the field. We note that the record contains a Google Scholar report indicating that the Petitioner has published five scholarly works that have cumulatively been cited 15 times. While the record contains other documentation indicating she had published other scholarly articles, much of this documentation has not been translated into English with an accompanying certified translation under 8 C.F.R. § 103.2(b)(3). Thus, the Petitioner has not explained how her publication and citation history demonstrate that she has made original contributions of major significance in the field.

In addition, the fact that the Petitioner has published articles that other researchers have referenced is not, by itself, indicative of a contribution of major significance. Publications are not sufficient to establish eligibility under 8 C.F.R. § 204.5(h)(3)(v), absent evidence that they were of “major significance.” See *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff’d in part*, 596 F.3d 1115. Furthermore, contributions of major significance connotes that the petitioner’s work has significantly impacted the field. See *Visinscaia*, 4 F. Supp. 3d at 134. While the Petitioner submits a scholarly article she co-authored with two of her colleagues at [REDACTED] College entitled, [REDACTED] she has not submitted supporting documentation that establishes how this has impacted the field. For these reasons, and those discussed above, the Petitioner has not established that she meets this criterion.

*Evidence of the alien’s authorship of scholarly articles in the field, in professional or major trade publications or other major media.* 8 C.F.R. § 204.5(h)(3)(vi).

The Director held that the Petitioner met this criterion an account of his articles published in the *Journal of Logic Analysis*, the *Journal of Geometric Analysis*, and *Topology Proceedings*, among others. Thus, the Petitioner has established that she meets this criterion.

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).*

For a leading role, the evidence must establish that the petitioner is or was a leader.<sup>2</sup> If a critical role, the evidence must establish that the petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. A supporting role may be considered "critical" if the petitioner's performance in the role is or was important in that way. It is not the title of the petitioner's role, but rather her performance in the role that determines whether the role is or was critical.<sup>3</sup>

The Director held that the Petitioner had not established that her position as a professor at [redacted], the University of [redacted] State University, [redacted] University of Science and Technology, the [redacted] School of Information Technology, the [redacted] University of Technology, and the University of [redacted] amounted to leading or critical roles. The record reflects that the Petitioner was a professor at these institutions, but she has not submitted any evidence indicating that she was in a leadership position to constitute a leading role.

The Petitioner cites letters from former colleagues at the University of [redacted] and [redacted] University, but these do not establish that she performed a critical role at these universities. For example, [redacted] associate professor at the University of [redacted] states that he was impressed with the Petitioner's teaching, noting her innovative methods such as encouraging students to create three-dimensional models in multi-variable calculus. The letters from other professors similarly attest to the Petitioner's engaging manner of teaching students, but the record does not contain evidence demonstrating how the Petitioner's role as a professor at these institutions was of significant importance to the outcome of the organization's activities to constitute a critical role. Therefore, the Petitioner has not established that she meets the requirements of this criterion.

### III. CONCLUSION

The Petitioner is not eligible because she has not submitted the required initial evidence of either a qualifying one-time achievement, or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). Thus, we do not need to fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has not been met.

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<sup>2</sup> See USCIS Policy Memorandum PM-602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14* 10 (Dec. 22, 2010), <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf>.

<sup>3</sup> See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.

*Matter of M-A-M-*

**ORDER:** The appeal is dismissed.

Cite as *Matter of M-A-M-*, ID# 3349591 (AAO July 23, 2019)